

1 Laboratory Services Revolving Fund. Other State and federal
2 funds related to laboratory services may also be deposited
3 into the Fund, and all interest that accrues on the moneys in
4 the Fund shall be deposited into the Fund.

5 Moneys shall be appropriated from the Fund solely for the
6 purposes of testing specimens submitted in support of
7 Department programs established for the protection of human
8 health, welfare, and safety, and for testing specimens
9 submitted by physicians and other health care providers, to
10 determine whether chemically hazardous, biologically
11 infectious substances, or other disease causing conditions
12 are present.

13 (Source: P.A. 91-239, eff. 1-1-00.)

14 Section 10. The Phenylketonuria Testing Act is amended
15 by changing Sections 0.01, 1, and 1.5 and adding Sections
16 3.1, 3.2, and 3.3 as follows:

17 (410 ILCS 240/0.01) (from Ch. 111 1/2, par. 4902.9)

18 Sec. 0.01. Short title. This Act may be cited as the
19 Newborn Screening Phenylketonuria-Testing Act.

20 (Source: P.A. 86-1324.)

21 (410 ILCS 240/1) (from Ch. 111 1/2, par. 4903)

22 Sec. 1. The Illinois Department of Public Health shall
23 promulgate and enforce rules and regulations requiring that
24 every newborn be subjected to tests for phenylketonuria,
25 hypothyroidism, galactosemia and such other metabolic
26 diseases as the Department may deem necessary from time to
27 time. In addition, the Department shall adopt rules
28 requiring that every newborn whose mother's Human
29 Immunodeficiency Virus (HIV) status is unknown shall be
30 tested for HIV antibodies as a routine component of newborn
31 care, subject to parental or guardian right of refusal. The

1 Department is empowered to promulgate such additional rules
 2 and regulations as are found necessary for the administration
 3 of this Act, including mandatory reporting of the results of
 4 all tests for these conditions to the Illinois Department of
 5 Public Health. To protect the confidentiality of test
 6 results, all HIV-positive results shall be reported in
 7 accordance with State laws and rules, including Section 4 of
 8 the AIDS Registry Act and 77 Ill. Admin. Code Section 697.210
 9 and 77 Ill. Admin. Code Section 693.30.

10 (Source: P.A. 83-87.)

11 (410 ILCS 240/1.5)

12 Sec. 1.5. Definitions. In this Act:

13 "Accredited laboratory" means any laboratory that holds a
 14 valid certificate issued under the Clinical Laboratory
 15 Improvement Amendments of 1988, 102 Stat. 2903, 42 U.S.C.
 16 263a, as amended, and that reports its screening results by
 17 using normal pediatric reference ranges.

18 "Expanded screening" means screening for genetic and
 19 metabolic disorders, including but not limited to amino acid
 20 disorders, organic acid disorders, fatty acid oxidation
 21 disorders, and other abnormal profiles, in newborn infants
 22 that can be detected through the use of a tandem mass
 23 spectrometer.

24 "HIV-related test" means a test that detects the presence
 25 of HIV antibodies.

26 "Tandem mass spectrometer" means an analytical instrument
 27 used to detect numerous genetic and metabolic disorders at
 28 one time.

29 (Source: P.A. 92-701, eff. 7-19-02.)

30 (410 ILCS 240/3.1 new)

31 Section 3.1. Powers and duties of Department; HIV tests
 32 and education; penalty.

1 (a) The Department of Public Health shall administer the
2 provisions of this Act and shall:

3 (1) Institute and carry on an intensive educational
4 program among physicians, hospitals, public health
5 nurses, and the public concerning HIV. This educational
6 program shall include information about the nature of the
7 disease and the diagnostic test for the detection of the
8 disease that should be done during pregnancy or for a
9 newborn within 48 hours of birth (if the HIV status of
10 the mother is unknown), subject to the right of refusal,
11 in order that measures may be taken to prevent HIV
12 infection.

13 (2) Establish a comprehensive program for the
14 detection of antibodies to the HIV virus. The program
15 must include instructions on but need not be limited to:

16 (i) the requirements of this Act;

17 (ii) the benefits of HIV testing for pregnant
18 women and newborns whose mothers' HIV statuses are
19 unknown;

20 (iii) the possible interventions to prevent
21 HIV transmission from a pregnant woman to her fetus
22 or newborn;

23 (iv) the side effects of such interventions;

24 (v) the statutory confidentiality provisions
25 that relate to HIV and acquired immune deficiency
26 syndrome ("AIDS") testing; and

27 (vi) resources available for health care, case
28 management, counseling, and treatment for people
29 with HIV and AIDS.

30 (3) Promulgate rules governing the implementation
31 of the program required under item (2), including the
32 administration of counseling, testing, disclosure of a
33 child's test results to the child's mother or other
34 designated guardian, referral to follow-up care, and

1 educational activities relating to such testing.

2 If a mother has had an HIV-related test, the person
3 responsible for testing under this Section may omit an
4 HIV-related test for the mother's newborn.

5 (b) Any person violating the provisions of this Section
6 is guilty of a petty offense.

7 (410 ILCS 240/3.2 new)

8 Section 3.2. Administration of HIV-related tests to
9 newborns. The person in charge of each institution that
10 cares for newborn infants shall cause to have administered an
11 HIV-related test to every newborn infant in its care whose
12 mother's HIV status is unknown. Any health care provider who
13 performs an HIV-related test on a newborn under the
14 provisions of this Section shall report the results to the
15 mother or other designated guardian of the newborn within 48
16 hours of the birth of the newborn. The provider shall refer
17 any newborn who tests positive for HIV to an HIV case manager
18 and an appropriate health care provider. The provider shall
19 also give the mother a list of support and health care
20 services for people with HIV and AIDS. Any person violating
21 the provisions of this Section is guilty of a petty offense.

22 (410 ILCS 240/3.3 new)

23 Section 3.3. Objections of parent or guardian.

24 (a) The provisions of this Act related to HIV testing do
25 not apply to a child if his or her parent or guardian objects
26 to the HIV testing for any reason. Documentation of such
27 objection shall be written by the physician or other person
28 whose duty is to administer such tests under this Act.

29 (b) This Act applies to all screening tests covered by
30 the Act, except HIV when the parent or guardian of the child
31 objects thereto on the grounds that such test conflicts with
32 his or her religious tenets and practices. Documentation of

1 such objection shall be written by the physician or other
2 person whose duty it is to administer such tests under this
3 Act.

4 Section 15. The Genetic Information Privacy Act is
5 amended by changing Section 30 as follows:

6 (410 ILCS 513/30)

7 Sec. 30. Disclosure of person tested and test results.

8 (a) No person may disclose or be compelled to disclose
9 the identity of any person upon whom a genetic test is
10 performed or the results of a genetic test in a manner that
11 permits identification of the subject of the test, except to
12 the following persons:

13 (1) The subject of the test or the subject's
14 legally authorized representative. This paragraph does
15 not create a duty or obligation under which a health care
16 provider must notify the subject's spouse or legal
17 guardian of the test results, and no such duty or
18 obligation shall be implied. No civil liability or
19 criminal sanction under this Act shall be imposed for any
20 disclosure or nondisclosure of a test result to a spouse
21 by a physician acting in good faith under this paragraph.
22 For the purpose of any proceedings, civil or criminal,
23 the good faith of any physician acting under this
24 paragraph shall be presumed.

25 (2) Any person designated in a specific written
26 legally effective release of the test results executed by
27 the subject of the test or the subject's legally
28 authorized representative.

29 (3) An authorized agent or employee of a health
30 facility or health care provider if the health facility
31 or health care provider itself is authorized to obtain
32 the test results, the agent or employee provides patient

1 care, and the agent or employee has a need to know the
2 information in order to conduct the tests or provide care
3 or treatment.

4 (4) A health facility or health care provider that
5 procures, processes, distributes, or uses:

6 (A) a human body part from a deceased person
7 with respect to medical information regarding that
8 person; or

9 (B) semen provided prior to the effective date
10 of this Act for the purpose of artificial
11 insemination.

12 (5) Health facility staff committees for the
13 purposes of conducting program monitoring, program
14 evaluation, or service reviews.

15 (6) In the case of a minor under 18 years of age,
16 the health care provider who ordered the test shall make
17 a reasonable effort to notify the minor's parent or legal
18 guardian if, in the professional judgment of the health
19 care provider, notification would be in the best interest
20 of the minor and the health care provider has first
21 sought unsuccessfully to persuade the minor to notify the
22 parent or legal guardian or after a reasonable time after
23 the minor has agreed to notify the parent or legal
24 guardian, the health care provider has reason to believe
25 that the minor has not made the notification. This
26 paragraph shall not create a duty or obligation under
27 which a health care provider must notify the minor's
28 parent or legal guardian of the test results, nor shall a
29 duty or obligation be implied. No civil liability or
30 criminal sanction under this Act shall be imposed for any
31 notification or non-notification of a minor's test result
32 by a health care provider acting in good faith under this
33 paragraph. For the purpose of any proceeding, civil or
34 criminal, the good faith of any health care provider

1 acting under this paragraph shall be presumed.

2 (7) All information and records held by a State
3 agency or local health authority pertaining to genetic
4 information shall be strictly confidential and exempt
5 from copying and inspection under the Freedom of
6 Information Act. The information and records shall not
7 be released or made public by the State agency or local
8 health authority and shall not be admissible as evidence
9 nor discoverable in any action of any kind in any court
10 or before any tribunal, board, agency, or person and
11 shall be treated in the same manner as the information
12 and those records subject to the provisions of Part 21 of
13 Article VIII of the Code of Civil Procedure except under
14 the following circumstances:

15 (A) when made with the written consent of all
16 persons to whom the information pertains;

17 (B) when authorized by Section 5-4-3 of the
18 Unified Code of Corrections;

19 (C) when made for the sole purpose of
20 implementing the Newborn Screening Phenylketonuria
21 Testing Act and rules; or

22 (D) when made under the authorization of the
23 Illinois Parentage Act of 1984.

24 Disclosure shall be limited to those who have a need to
25 know the information, and no additional disclosures may be
26 made.

27 (b) Disclosure by an insurer in accordance with the
28 requirements of the Article XL of the Illinois Insurance Code
29 shall be deemed compliance with this Section.

30 (Source: P.A. 90-25, eff. 1-1-98.)

31 (410 ILCS 240/3 rep.)

32 Section 20. The Phenylketonuria Testing Act is amended by
33 repealing Section 3.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".